

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT IN AND
FOR MARION COUNTY, FLORIDA

CASE NO.: 10-3780-CA-G

MICHELLE MARTIN KING, individually,
and as parent and next friend of
RK1, a minor, and RK2, a minor,

Plaintiffs,

vs.

FLORIDA DEPARTMENT OF
CHILDREN AND FAMILIES, KIDS
CENTRAL, INC., CAMELOT
COMMUNITY CARE, INC.,
AMY RANGER, KIMBERLY SCOTT,
and THERESA SOFSKY,

Defendants.

DAVID R. ELLSBERG, JUDGE
CLERK CIRCUIT COURT
MARION COUNTY, FL

2010 OCT 21 PM 4:02

FILED
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AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs MICHELLE MARTIN KING, individually, and as parent and next friend of RK1, a minor, and RK2, a minor, by and through their undersigned counsel, hereby sue the Defendants FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES, KIDS CENTRAL, INC., CAMELOT COMMUNITY CARE, INC., AMY RANGER, KIMBERLY SCOTT, and THERESA SOFSKY and state:

JURISDICTION AND VENUE

1. This amended complaint sets forth claims for negligence and violations of 42 U.S.C. §1983, which involve damages in excess of Fifteen Thousand Dollars (\$15,000.00) exclusive of attorney's fees, interest or costs and which arise out of actions or omissions that occurred in Marion and/or Hernando County, Florida.

2. At all times material hereto, Plaintiffs were, and currently are, residents of the state of Florida.

3. Defendant FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES (hereinafter FDCF) is a subdivision of the state of Florida.

4. Defendant KIDS CENTRAL, INC. (hereinafter KCI) is a not-for-profit corporation organized and existing under the laws of the state of Florida whose principal place of business is 2117 SW Highway 484, Ocala, Florida (Marion County).

5. CAMELOT COMMUNITY CARE, INC. (hereinafter CAMELOT) is a not-for-profit corporation organized and existing under the laws of the state of Florida whose principal place of business is 4910-D Creekside Drive, Clearwater, Florida (Pinellas County).

6. Upon information and belief, Defendant AMY RANGER (hereinafter RANGER) is an individual who is sui juris and a resident of the state of Florida.

7. Upon information and belief, Defendant KIMBERLY SCOTT (hereinafter SCOTT), is an individual who is sui juris and a resident of the state of Florida.

8. Upon information and belief, Defendant THERESA SOFSKY (hereinafter SOFSKY), is an individual who is sui juris and a resident of the state of Florida.

THE PARTIES

9. RK1 and RK2 are twin boys, who were born prematurely on August 20, 2001. RK2 was born with two holes in his heart and suffers with speech delays/impediments. RK1 was also born with heart problems.

10. On or about June 12, 2006, RK1 and RK2 were taken into the custody and control of the Defendant FDCF, as a result of alleged neglect and failure to protect the children by their mother, Plaintiff MICHELLE MARTIN KING.

11. RK1 and RK2 were placed in the foster home of Gloria Smith from on or about June 12, 2006 until on or about December 6, 2006 which was located in Ocala, Florida (Marion County).

12. Plaintiff KING files this action on her own behalf and, as parent, and next friend on behalf of RK1 and RK2. Due to RK1 and RK2's status as minors in the foster care system at all times material hereto and the nature of the allegations, Plaintiffs file this action using pseudonyms.

13. At all times material hereto, in FDCF's Circuit 5 (f/k/a FDCF's District 13), which includes Citrus, Hernando, Lake, Marion and Sumter Counties, Defendant FDCF contracted with Defendant KCI as its Community Based Care Provider to coordinate child protection services and to act as the lead agency to provide services on FDCF's behalf.

14. Defendant FDCF is an agency of the state of Florida which is charged with the duty to assist abused and neglected children and to ensure their health, safety and welfare, including, but not limited to, the duty to investigate any allegations of child abuse, abandonment, or neglect and the duty to supervise foster care services which are outsourced to community-based agencies. FDCF had the authority, duty, and responsibility:

- a. To investigate the fitness of the Smith foster home as a placement for RK1 and RK2 taking into account their individualized physical, emotional, and social needs, as well as their history and background;
- b. To ensure that caseworkers visited children in foster home placements in accordance with the requirements for children in shelter status or FDCF custody;
- c. To ensure that caseworkers investigated all relevant conditions of the foster home that might affect RK1 and RK2 or other children in the foster home;
- d. To continually assess the adequacy and safety of RK1 and RK2's particular placement, and/or to ensure that others were doing so;

- e. To ensure that all necessary care plans were established by caseworkers;
- f. To ensure that caseworkers made all necessary and appropriate referrals for evaluations and services;
- g. To ensure that foster children were not abandoned and/or left in dangerous living conditions;
- h. To use reasonable care to keep children, including RK1 and RK2, safe while in Defendants' care and custody;
- i. To use reasonable care in the oversight and supervision of RK1 and RK2 and other children in the care and custody of Defendants to ensure that those children were adequately supervised and sheltered in a safe and appropriate placement;
- j. To comply with the rules of the Florida Administrative Code and Defendant FDCF's rules and regulations regarding the safety of children and/or to ensure that others were doing so;
- k. To prepare and implement safety plans or plans of care to ensure that all foster and/or shelter children, including RK1 and RK2, were safe and appropriately cared for and/or to ensure that others were doing so;
- l. To implement the provisions of all safety plans or plans of care that were created and/or to ensure that others were doing so to ensure that all foster children, including RK1 and RK2, were safe and appropriately cared for;
- m. To provide any necessary safety measures to ensure all children in the care and custody of Defendants, including RK1 and RK2, are adequately supervised, in appropriate placements, safe, and cared for appropriately;

- n. To properly report, investigate and take action on any reports of abuse or neglect in a foster home;
- o. To outline a plan of care to handle any special management issues identified in the any history and assessments to ensure that all children in a foster home, including RK1 and RK2, are safe appropriately cared for, and adequately supervised; and
- p. To ensure that children in care, including RK1 and RK2, are provided with appropriate education and services.

15. Pursuant to section 409.145(1), Florida Statutes, Defendant FDCF has the duty to provide services directed to the following goals:

- a. The prevention of separation of children from their families.
- b. The reunification of families who have had children placed in foster homes or institutions.
- c. The permanent placement of children who cannot be reunited with their families or when reunification would not be in the best interest of the child.
- d. The protection of dependent children or children alleged to be dependent, including provision of emergency and long-term alternate living arrangements.

16. Defendant FCDF was responsible for investigating all allegations of neglect and abuse in FDCF's Circuit 5 (f/k/a District 13) and also retained the duties to ensure the quality of the contracted services with Defendant KCI and any of its subcontractors, including but not limited to Defendant CAMELOT, and to ensure that all services were delivered in accordance with all applicable state and federal laws.

17. Defendant FCDF was and is required under Florida law to adopt and comply with written policies and procedures for monitoring the contract for delivery of services by lead community based providers, including Defendant KCI.

18. At all times material hereto, Defendant KCI subcontracted with Defendant CAMELOT to provide case management for children who had been adjudicated dependent to the child welfare system.

19. At all times material hereto, Defendant KCI subcontracted with Defendant CAMELOT to provide recruitment, training, licensing, re-licensing and support of foster homes, including the monitoring and oversight of licensed foster home placements, for the child welfare system within Circuit 5 (f/k/a District 13).

20. Pursuant to its contract with Defendant FDCF, Defendant KCI retained the duty to ensure the quality of all subcontracted services and the responsibility to ensure that all services were delivered in accordance with applicable state and federal laws.

21. As community based care providers, Defendants KCI and CAMELOT had the authority, duty, and responsibility:

- a. To investigate the fitness of the Smith foster home as a placement for RK1 and RK2 taking into account their individualized physical, emotional, and social needs, as well as their history and background;
- b. To ensure that caseworkers visited children in foster home placements in accordance with the requirements for children in shelter status or FDCF custody;
- c. To ensure that caseworkers investigated all relevant conditions of the foster home that might affect RK1 and RK2 or other children in the foster home;

- d. To continually assess the adequacy and safety of RK1 and RK2's particular placement, and/or to ensure that others were doing so;
- e. To ensure that all necessary care plans were established by caseworkers;
- f. To ensure that caseworkers made all necessary and appropriate referrals for evaluations and services;
- g. To ensure that foster children were not abandoned and/or left in dangerous living conditions;
- h. To use reasonable care to keep children, including RK1 and RK2, safe while in the care and custody of Defendants;
- i. To use reasonable care in the oversight and supervision of RK1 and RK2 and other children in the care and custody of Defendants to ensure that those children were adequately supervised and sheltered in a safe and appropriate placement;
- j. To comply with the rules of the Florida Administrative Code and Defendant FDCF's rules and regulations of the regarding the safety of children;
- k. To prepare and implement safety plans or plans of care to ensure that all foster and/or shelter children, including RK1 and RK2, were safe and appropriately cared for;
- l. To implement the provisions of all safety plans or plans of care that were created to ensure that all foster children, including RK1 and RK2, were safe and appropriately cared for;
- m. To provide any necessary safety measures to ensure all children in the care and custody of Defendants, including RK1 and RK2, are adequately supervised, in appropriate placements, safe, and cared for appropriately;

- n. To properly report, investigate and take action on any reports of abuse or neglect in a foster home;
 - o. To outline a plan of care to handle any special management issues identified in the any history and assessments to ensure that all children in a foster home, including RK1 and RK2, are safe appropriately cared for, and adequately supervised; and
 - p. To ensure that children in care, including RK1 and RK2, are provided with appropriate education and services.
22. Defendant RANGER, an employee of KCI and/or CAMELOT, was the caseworker assigned to RK1 and RK2's case.
23. Defendant SCOTT, an employee of KCI and/or CAMELOT, was Defendant RANGER's supervisor.
24. At all times material hereto Defendant RANGER had a duty:
- a. To ensure the safety and well-being of the children under her care;
 - b. To perform at least monthly home visits to those children in their placements;
 - c. To use reasonable care in the monitoring, supervision, and oversight of RK1 and RK2's placement in the Smith foster home;
 - d. To use reasonable care to provide for the safety and welfare of RK1 and RK2;
 - e. To comply with applicable Florida law, federal law, and the rules and regulations of the Defendant FDCF regarding the safety and welfare of children of RK1 and RK2;

- f. To properly report, investigate, and take appropriate action regarding any allegations of neglect or abuse of RK1 and RK2 or other children in the Smith foster home; and
 - g. To ensure that RK1 and RK2 received all necessary and appropriate educational, rehabilitative, therapeutic, medical and mental health services to meet to meet their physical, emotional, and social needs.
- 25. At all times material hereto, Defendant SCOTT had a duty:
 - a. To ensure the safety and well-being of the children under her care and/or to ensure others, including Defendant RANGER, were doing so;
 - b. To perform at least monthly home visits to those children in their placements and/or to ensure others, including Defendant RANGER, were doing so;
 - c. To use reasonable care in the monitoring, supervision, and oversight of RK1 and RK2's placement in the Smith foster home and/or to ensure others, including Defendant RANGER, were doing so;
 - d. To use reasonable care to provide for the safety and welfare of RK1 and RK2 and/or to ensure others, including Defendant RANGER, were doing so;
 - e. To comply with applicable Florida law, federal law, and the rules and regulations of the Defendant FDCF regarding the safety and welfare of children, including RK1 and RK2, and/or to ensure others, including Defendant RANGER, were doing so;
 - f. To properly report, investigate, and take appropriate action regarding any allegations of neglect or abuse of RK1 and RK2 or other children in the Smith

foster home and/or to ensure others, including Defendant RANGER, were doing so; and

- g. To ensure that RK1 and RK2 received all necessary and appropriate educational, rehabilitative, therapeutic, medical and mental health services to meet to meet their physical, emotional, and social needs.

26. At all times material, Defendant SOFSKY was an employee of Defendant FDCF. Defendant SOFSKY was the FDCF investigator who investigated the October 18, 2006 allegations of abuse and neglect of RK1 and RK2 in the Smith foster home.

27. At all times material hereto, Defendant SOFSKY had a duty:

- a. To ensure the safety and well-being of the children in the care, custody or control of FDCF or its community based providers and/or to ensure others were doing so;
- b. To use reasonable care to provide for the safety and welfare of RK1 and RK2 and/or to ensure others were doing so;
- c. To comply with applicable Florida law, federal law, and the rules and regulations of the Defendant FDCF regarding the safety and welfare of children, including RK1 and RK2, and/or to ensure others, including Defendant RANGER, were doing so; and
- d. To properly report, investigate, and take appropriate action regarding any allegations of neglect or abuse of RK1 and RK2 or other children in the Smith foster home and/or to ensure others, including Defendant RANGER, were doing so.

28. At all times relevant hereto, Defendants RANGER, SCOTT, and SOFSKY had the ability, authority, and means to remove children from any foster home where they were at substantial risk of serious harm.

29. Defendants RANGER, SCOTT, and SOFSKY are each being sued in their individual capacities.

GENERAL ALLEGATIONS

30. On or about June 12, 2006, Plaintiffs RK1, a minor, and RK2, a minor, were removed from Plaintiff KING and taken into the care, custody, and control of Defendant FDCF.

31. On or shortly after June 12, 2006, the case involving RK1 and RK2 was staffed to Defendant KCI by Defendant FDCF for foster care services and possible dependency proceedings.

32. On or shortly after June 12, 2006, pursuant to the contract between Defendant KCI and Defendant CAMELOT, Defendant CAMELOT began to provide case management for RK1 and RK2, and KK.

33. Upon the recommendation of Defendant CAMELOT and approval by Defendant KCI, RK1 and RK2 were placed in the foster home of Gloria Smith (hereafter the Smith foster home) from on or about June 12, 2006 until on or about December 6, 2006.

34. From 1997 through 2001, more than 10 abuse allegations were made to Defendant FDCF against the Smith foster home. Investigations by FDCF verified or showed "some indicators" for about half of the complaints, including allegations of inadequate food, inadequate supervised care, and neglect.

35. As a result of the findings of one of the abuse reports in 2001 regarding Gloria Smith's foster home, all the foster children were removed and FDCF notified Gloria Smith that her license would not be renewed.

36. In 2002, despite the knowledge of the prior abuse reports involving Gloria Smith's foster home and the findings of those investigations, FDCF and KCI renewed Gloria Smith's foster care license in violation of FDCF's rules and regulations and permitted foster children like RK1 and RK2 to be placed in this dangerous home.

37. In 2003, 2004, 2005, and 2006, despite the knowledge of the prior abuse reports involving Gloria Smith's foster home and the findings of those investigations, Defendants KCI and CAMELOT requested that Gloria Smith's foster home license be renewed. Each time, despite the knowledge of the prior abuse reports involving Gloria Smith's foster home and the findings of those investigations, FDCF approved the requests and relicensed the Smith foster home.

38. RK1 and RK2 were placed by Defendant Camelot and Defendant KCI in the Smith foster home even though Defendants had knowledge of the foregoing abuse allegations and the knowledge that placement in the home would place RK1 and RK2 and any other foster child at a substantial risk of serious harm.

39. On or about August 18, 2006, while RK1 and RK2 were residing in the Smith foster home, Defendants CAMELOT and KCI requested an out of home capacity waiver/exception request, which would result in Smith foster home being over capacity by three children (for a total of five children) with two of those children being under the age of 23 months, which was approved by Defendant FDCF contrary to section 409.175(3), Florida Statutes (2006), and Florida Department of Children and Families Operating Procedure 175-64 (2006) and increased the risk of harm to all children in the Smith foster home, including RK1 and RK2.

40. On or before August 18, 2006, Defendant KCI's family support coordinators observed that one of the other foster children placed in the Smith foster home was constantly sick, unkempt, filth, and unclean during supervised visits.

41. On more than one occasion on or before August 18, 2006, Gloria Smith had failed to respond to the Defendant KCI's Family Care Manager's phone calls for the purposes of setting up a required monthly home visit.

42. Defendants FDCF, KCI, CAMELOT, and RANGER were made aware that several individuals who had contact with children residing in the Smith foster home had serious concerns regarding whether the children were being neglected and whether it was in the children's best interest to remain in the home.

43. Defendants FDCF, KCI, CAMELOT, and RANGER knew that the children in the Smith foster home, including RK1 and RK2, were being neglected and/or abused and were exposed to a substantial risk of serious harm.

44. Therefore, all children in the Smith foster home should have immediately been removed.

45. Plaintiff KING was not permitted to visit RK1 and RK2 until on or after August 23, 2006.

46. On or after August 23, 2006 during her first visit with RK1 and RK2, Plaintiff KING observed that RK1 and RK2 were filthy and became concerned about their care in the Smith foster home.

47. On or about August 30, 2006, Plaintiff KING contacted representatives of FDCF, KCI and CAMELOT, including Defendant RANGER and her supervisor Defendant SCOTT, as well as FDCF's Office of the Inspector General, advising them regarding her concerns regarding RK1 and RK2's care in the Smith foster home.

48. Had the Defendants who had knowledge of the history of neglect in the Smith foster home immediately investigated the concerns of Plaintiff KING, the children in the Smith foster home, including RK1 and RK2, should have immediately been removed.

49. On or about September 5, 2006, Plaintiff KING's concerns were forwarded to Don Thomas, Defendant FDCF's District Administrator for District 13, for review and handling.

50. On or about October 18, 2006, during another visitation with Plaintiff KING, RK1 and RK2 were found to be dirty and wearing dirty clothes.

51. Additionally, RK1 had a fat lip with a cut and RK2 had a red mark on the side of his face.

52. There was an ongoing concern that RK1 and RK2 were not receiving adequate meals and not being bathed regularly in foster care.

53. Defendant SOFSKY was the investigator assigned to investigate those allegations as a result of an abuse report received on October 18, 2006.

54. Defendant SOFSKY failed to perform a complete, adequate, and appropriate investigation of the allegations received on October 18, 2006 and the supplemental reports of alleged abuse and neglect of RK1 and RK2 in the Smith foster home.

55. Had the Defendants, who had knowledge of the history of neglect in the Smith foster home, completely, adequately, and appropriately investigated the concerns of Plaintiff KING, the children in the Smith foster home, including RK1 and RK2, should have again been immediately been removed.

56. Defendant SOFSKY acted negligently, recklessly, and/or with deliberate indifference to the reports of abuse and neglect and the serious concerns as to the safety and welfare RK1 and RK2 in the Smith foster home.

57. Defendant SOFSKY took no action to ensure the safety of RK1 and RK2 and made no referrals for services for RK1 and RK2 as a result of the neglect and/or abuse they suffered, as required by Florida law.

58. On or about October 19, 2006, the Guardian Ad Litem (GAL) assigned to RK1 and RK2 became concerned that RK1 and RK2 were being neglected in the Smith foster home and reported same.

59. On or about October 31, 2006, the GAL Case Coordinator Mary Stone expressed concerns regarding three children that she visited in the Smith foster home. She confirmed Plaintiff KING's complaints regarding the neglect to which RK1 and RK2 had been subjected. She further noted her concerns with her attempts to see the children in the Smith foster home and stated that she always met with problems in coordinating same with Gloria Smith.

60. Family visitation center employees informed Defendant KCI and personally informed Defendant RANGER of the neglect being suffered by RK1 and RK2 in the Smith foster home.

61. On or about October 26, 2006, Plaintiff KING took photographs depicting the neglect being suffered by RK1 and RK2 in the Smith foster home.

62. Plaintiff KING provided those photographs to the Defendants, including but not limited to Defendant KCI and/or CAMELOT's employee, Defendant RANGER. Defendants FDCF, KCI, CAMELOT, RANGER, SCOTT, and SOFSKY knew that RK1 and RK2 were being exposed to a substantial risk of serious harm and RK1 and RK2 should have been immediately removed from the Smith foster home.

63. On more than one occasion during the time that RK1 and RK2 resided in the Smith foster home, Plaintiff KING directly contacted Defendant RANGER and Defendant SCOTT to report her concerns that RK1 and RK2 were being neglected and/or abused in the Smith foster home.

64. Defendants RANGER and SCOTT acted negligently, recklessly, and/or with deliberate indifference to the reports of abuse and neglect and the serious concerns as to the safety and welfare RK1 and RK2 in the Smith foster home.

65. Defendants RANGER and SCOTT took no action to ensure the safety of RK1 and RK2 and did not report the abuse allegations to the abuse hotline, as required by Florida law.

66. On more than one occasion, Plaintiff KING reported the neglect and abuse of RK1 and RK2 to Defendant FDCF's abuse hotline which allegations were forwarded to the Defendant FDCF.

67. At all times while RK1 and RK2 were placed in the Smith foster home, Defendants knew or should have known about the prior abuse reports and previous licensing concerns against the Smith foster home and that all children placed in the Smith foster home were at risk of being abused and/or neglected.

68. At all times while RK1 and RK2 were placed the Smith foster home, Defendants knew or should have known about the complaints from Plaintiff KING, GAL representatives, visitation center representatives, family support coordinators, transporters, and others that RK1 and RK2, as well as other foster children, were being neglected and/or abused in the Smith foster home.

69. At all times material hereto, RK1 and RK2 were neglected in the Smith foster home and received inadequate care, inadequate food, and inadequate supervision from the Defendants, while residing in Smith foster home, which occurred continuously from the time of their placement until their removal from her home on or about December 6, 2006.

70. At all times material hereto, RK1 and RK2 were repeatedly subjected to severe neglect, physical abuse, and emotional abuse while residing in Smith foster home, which occurred

continuously from the time of their placement until their removal from her home on or about December 6, 2006.

71. Pursuant to section 768.28, Florida Statutes, Plaintiffs notified Defendant FDCF of this claim six months or more prior to the filing of this action and all conditions precedent have been performed.

COUNT I - NEGLIGENCE AS TO DEFENDANT FDCF

72. Plaintiffs hereby reaver and reallege paragraphs 1 through 27, 30 through 37, 39 through 42, 44 through 55, 58 through 61, 63, and 67 through 71, as if fully set forth herein.

73. Defendant FDCF, through its agents and/or employees, breached the duties owed to RK1 and RK2 through its acts and omissions, including, but not limited to:

- a. Negligently failing to investigate the fitness of the Smith foster home as a placement for RK1 and RK2 taking into account their individualized physical, emotional, and social needs, as well as their history and background;
- b. Negligently failing to use reasonable care in the monitoring, supervision, and oversight of RK1, RK2, and the other children placed in the Smith foster home;
- c. Negligently failing to perform home visits to RK1 and RK2 as required Florida law and Defendant FDCF's rules and regulations to ensure the placement was secure, stable, safe, and appropriate and meeting RK1 and RK2's needs;
- d. Negligently failing to provide a safe, secure environment where RK1 and RK2 were free from unreasonable risk of harm;
- e. Negligently violating Florida law, as well as FDCF's rules and regulations, which provide for the safety and children adjudicated dependent to the child welfare system;

- f. Negligently failing to report and/or negligently investigating the allegations of neglect and/or abuse regarding the Smith foster home;
- g. Negligently failing to take appropriate actions as a result of the neglect and/or abuse in the Smith foster home; and
- h. Negligently failing to ensure that RK1 and RK2 received all necessary and appropriate educational, rehabilitative, therapeutic, medical and mental health services to meet to meet their physical, emotional, and social needs;

74. As a direct and proximate result of the aforementioned breaches, RK1 and RK2 were neglected and/or abused.

75. Defendant is responsible and vicariously liable for the negligent acts of its agents, employees, and/or servants.

76. RK1 and RK2 suffered and will continue to suffer severe bodily harm and resulting pain and suffering, disability, loss of health and acquired skills, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment. The losses are either permanent or continuing in nature and RK1 and RK2 will suffer such losses in the future which will require future care and treatment.

WHEREFORE, Plaintiffs MICHELLE MARTIN KING, individually, and as parent and next friend of RK1, a minor, and RK2, a minor, demand judgment against Defendant FDCF for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT II - NEGLIGENCE AS TO DEFENDANT KCI

77. Plaintiffs hereby reaver and reallege paragraphs 1 through 13, 18 through 25, 30 through 37, 39 through 42, 44 through 55, 58 through 61, 63, and 67 through 71, as if fully set forth herein.

78. Defendant KCI, through its agents and/or employees, breached the duties owed to RK1 and RK2 through its acts and omissions, including, but not limited to:

- a. Negligently failing to investigate the fitness of the Smith foster home as a placement for RK1 and RK2 taking into account their individualized physical, emotional, and social needs, as well as their history and background;
- b. Negligently failing to use reasonable care in the monitoring, supervision, and oversight of RK1, RK2, and the other children placed in the Smith foster home;
- c. Negligently failing to perform home visits to RK1 and RK2 as required Florida law and Defendant FDCF's rules and regulations to ensure the placement was secure, stable, safe, and appropriate and meeting RK1 and RK2's needs;
- d. Negligently failing to provide a safe, secure environment where RK1 and RK2 were free from unreasonable risk of harm;
- e. Negligently violating Florida law, as well as FDCF's rules and regulations, which provide for the safety and children adjudicated dependent to the child welfare system;
- f. Negligently failing to report and/or negligently investigating the allegations of neglect and/or abuse regarding the Smith foster home;
- g. Negligently failing to take appropriate actions as a result of the neglect and/or abuse in the Smith foster home; and
- h. Negligently failing to ensure that RK1 and RK2 received all necessary and appropriate educational, rehabilitative, therapeutic, medical and mental health services to meet to meet their physical, emotional, and social needs;

79. As a direct and proximate result of the aforementioned breaches, RK1 and RK2 were neglected and/or abused.

80. Defendant KCI is responsible and vicariously liable for the negligent acts of its agents, employees, and/or servants.

81. RK1 and RK2 suffered and will continue to suffer severe bodily harm and resulting pain and suffering, disability, loss of health and acquired skills, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment. The losses are either permanent or continuing in nature and RK1 and RK2 will suffer such losses in the future which will require future care and treatment.

WHEREFORE, Plaintiffs MICHELLE MARTIN KING, individually, and as parent and next friend of RK1, a minor, and RK2, a minor, demand judgment against Defendant KCI for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT III - NEGLIGENCE AS TO DEFENDANT CAMELOT

82. Plaintiffs hereby reaver and reallege paragraphs 1 through 13, 18 through 21, 30 through 37, 39 through 42, 44 through 55, 58 through 61, 63, and 66 through 71, as if fully set forth herein.

83. Defendant CAMELOT, through its agents and/or employees, breached the duties owed to RK1 and RK2 through its acts and omissions, including, but not limited to:

- a. Negligently failing to investigate the fitness of the Smith foster home as a placement for RK1 and RK2 taking into account their individualized physical, emotional, and social needs, as well as their history and background;
- b. Negligently failing to use reasonable care in the monitoring, supervision, and oversight of RK1, RK2, and the other children placed in the Smith foster home;

- c. Negligently failing to perform home visits to RK1 and RK2 as required Florida law and Defendant FDCF's rules and regulations to ensure the placement was secure, stable, safe, and appropriate and meeting RK1 and RK2's needs;
- d. Negligently failing to provide a safe, secure environment where RK1 and RK2 were free from unreasonable risk of harm;
- e. Negligently violating Florida law, as well as FDCF's rules and regulations, which provide for the safety and children adjudicated dependent to the child welfare system;
- f. Negligently failing to report and/or negligently investigating the allegations of neglect and/or abuse regarding the Smith foster home;
- g. Negligently failing to take appropriate actions as a result of the neglect and/or abuse in the Smith foster home; and
- h. Negligently failing to ensure that RK1 and RK2 received all necessary and appropriate educational, rehabilitative, therapeutic, medical and mental health services to meet to meet their physical, emotional, and social needs;

84. As a direct and proximate result of the aforementioned breaches, RK1 and RK2 were neglected and/or abused.

85. Defendant is responsible and vicariously liable for the negligent acts of its agents, employees, and/or servants.

86. RK1 and RK2 suffered and will continue to suffer severe bodily harm and resulting pain and suffering, disability, loss of health and acquired skills, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment. The

losses are either permanent or continuing in nature and RK1 and RK2 will suffer such losses in the future which will require future care and treatment.

WHEREFORE, Plaintiffs MICHELLE MARTIN KING, individually, and as parent and next friend of RK1, a minor, and RK2, a minor, demand judgment against Defendant CAMELOT for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

**COUNT IV- 42 U.S.C. §1983 VIOLATION BY DEFENDANT AMY RANGER AS TO
RK1 and RK2**

87. This count arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

88. Plaintiffs hereby reaver and reallege paragraphs 1 through 13, 22 through 24, 28 through 52, 55, 58 through 70 as if fully set forth herein.

89. At all times material hereto, 409.1671(1)f1, Florida Statutes, foster care was historically a public function traditionally with the prerogative of the state of Florida which was delegated to Defendant KCI and/or Defendant CAMELOT to perform.

90. At all times material hereto, Defendant RANGER, a caseworker, had the authority and duty to perform traditional state and government functions, including, but not limited to:

- a. Visiting children in foster home placements at least monthly;
- b. Reporting to licensing staff any concerns regarding the condition of the foster home including, but not limited to, the ability of the foster parents to adequately supervise the children in the home;
- c. Reporting to the abuse hotline any suspected abuse or neglect;
- d. Continually assessing the adequacy and safety of a child's particular placement;

- e. Facilitating parents' efforts to complete their case plan and their efforts towards reunification with their children; and
- f. Providing for the safety of RK1 and RK2 who were in the custody of Defendants.

91. At all times material hereto, Defendant RANGER was acting under the color of state law.

92. Defendant RANGER had knowledge that she was exposing RK1 and RK2 to a substantial risk of serious harm, was deliberately indifferent to the neglect and/or abuse being suffered by RK1, and RK2 and knowingly and recklessly failed to take immediate action which would ensure their safety and welfare.

93. Defendant RANGER violated RK1 and RK2's fundamental right of physical safety by allowing them to remain in an unsafe home that subjected RK1 and RK2 to a heightened risk of danger and continued severe neglect.

94. Despite possessing the authority and means to remedy the unconstitutional treatment of RK1 and RK2, Defendant RANGER acted in total disregard of the constitutional rights of RK1 and RK2.

95. Defendant RANGER'S actions were taken with knowledge that said actions would deprive RK1 and RK2 of their constitutional rights.

96. At all relevant times, it was clearly established that children in the physical custody of the state foster care system had the right to be safe and free from unreasonable risk of harm.

97. As a result of Defendant RANGER'S deliberate indifference, RK1 and RK2 have suffered physical injury and psychological trauma, pain and suffering, discomfort, deterioration, disfigurement, loss of the ability to enjoy life, and suffered other reasonably foreseeable

compensatory damages. RK1 and RK2 will require services and treatment for the rest of their life due to the severe psychological trauma and other harm they endured while in state care.

98. Plaintiff KING, as parent and next friend of RK1, a minor, and RK2, a minor, is obligated to the undersigned firm for the payment of attorney's fees and, therefore, seeks recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE the Plaintiff MICHELLE MARTIN KING, as parent and next friend of RK1 a minor, and, RK2, a minor, prays that this Honorable Court enter a judgment in their favor against Defendant RANGER for all recoverable damages, attorneys' fees and costs and such other relief as the Court may deem proper.

**COUNT V- 42 U.S.C. §1983 VIOLATION BY DEFENDANT KIMBERLY SCOTT AS TO
RK1 and RK2**

99. This count arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

100. Plaintiffs hereby reaver and reallege paragraphs 1 through 13, 22 through 25, 28 through 52, 55, 58 through 70 as if fully set forth herein.

101. At all times material hereto, 409.1671(1)f)1, Florida Statutes, foster care was historically a public function traditionally with the prerogative of the state of Florida which was delegated to Defendant KCI and/or Defendant CAMELOT to perform.

102. At all times material hereto, Defendant SCOTT, a KCI supervisor, who supervised caseworkers, had the authority and duty to perform traditional state and government functions, including, but not limited to:

- a. Visiting children in foster home placements at least monthly and/or to ensure others, including, but not limited to Defendant RANGER were doing so;
- b. Reporting to licensing staff any concerns regarding the condition of the foster home including, but not limited to, the ability of the foster parents to adequately supervise the children in the home and/or to ensure others, including, but not limited to Defendant RANGER were doing so;
- c. Reporting to the abuse hotline any suspected abuse or neglect and/or to ensure others, including, but not limited to Defendant RANGER were doing so;
- d. Continually assessing the adequacy and safety of a child's particular placement, and/or to ensure others, including, but not limited to Defendant RANGER were doing so;
- e. Facilitating parents' efforts to complete their case plan and their efforts towards reunification with their children and/or to ensure others, including, but not limited to Defendant RANGER were doing so; and
- f. Providing for the safety of RK1 and RK2 who were in the custody of Defendants and/or to ensure others, including, but not limited to Defendant RANGER, were doing so.

103. At all times material hereto, Defendant SCOTT was acting under the color of state law.

104. Defendant SCOTT had knowledge that she was exposing RK1 and RK2 to a substantial risk of serious harm, was deliberately indifferent to the neglect and/or abuse being suffered by RK1, and RK2 and knowingly and recklessly failed to take immediate action which would ensure their safety and welfare.

105. Defendant SCOTT violated RK1 and RK2's fundamental right of physical safety by allowing them to remain in an unsafe home that subjected RK1 and RK2 to a heightened risk of danger and continued severe neglect.

106. Despite possessing the authority and means to remedy the unconstitutional treatment of RK1 and RK2, Defendant SCOTT acted in total disregard of the constitutional rights of RK1 and RK2.

107. Defendant SCOTT'S actions were taken with knowledge that said actions would deprive RK1 and RK2 of their constitutional rights.

108. At all relevant times, it was clearly established that children in the physical custody of the state foster care system had the right to be safe and free from unreasonable risk of harm.

109. As a result of Defendant SCOTT'S deliberate indifference, RK1 and RK2 have suffered physical injury and psychological trauma, pain and suffering, discomfort, deterioration, disfigurement, loss of the ability to enjoy life, and suffered other reasonably foreseeable compensatory damages. RK1 and RK2 will require services and treatment for the rest of their life due to the severe psychological trauma and other harm they endured while in state care.

110. Plaintiff KING, as parent and next friend of RK1, a minor, and RK2, a minor, is obligated to the undersigned firm for the payment of attorney's fees and, therefore, seeks recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE the Plaintiff MICHELLE MARTIN KING, as parent and next friend of RK1 a minor, and, RK2, a minor, prays that this Honorable Court enter a judgment in their favor against Defendant SCOTT for all recoverable damages, attorneys' fees and costs and such other relief as the Court may deem proper.

COUNT VI- 42 U.S.C. §1983 VIOLATION BY DEFENDANT THERESA SOFSKY
AS TO RK1 and RK2

111. This count arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment of the United States Constitution.

112. Plaintiffs hereby reaver and reallege paragraphs 1 through 16, 26, 28 through 62, and 66 through 70, as if fully set forth herein.

113. At all times material hereto, Defendant SOFSKY was acting under the color of state law.

114. Defendant SOFSKY had knowledge that she was exposing RK1 and RK2 to a substantial risk of serious harm, was deliberately indifferent to the neglect and/or abuse being suffered by RK1, and RK2 and knowingly and recklessly failed to take immediate action which would ensure their safety and welfare.

115. Defendant SOFSKY violated RK1 and RK2's fundamental right of physical safety by allowing them to remain in an unsafe home that subjected RK1 and RK2 to a heightened risk of danger and continued severe neglect.

116. Despite possessing the authority and means to remedy the unconstitutional treatment of RK1 and RK2, Defendant SOFSKY acted in total disregard of the constitutional rights of RK1 and RK2.

117. Defendant SOFSKY'S actions were taken with knowledge that said actions would deprive RK1 and RK2 of their constitutional rights.

118. At all relevant times, it was clearly established that children in the physical custody of the state foster care system had the right be safe and free from unreasonable risk of harm.

119. As a result of Defendant SOFSKY'S deliberate indifference, RK1 and RK2 have suffered physical injury and psychological trauma, pain and suffering, discomfort, deterioration, disfigurement, loss of the ability to enjoy life, and suffered other reasonably foreseeable compensatory damages. RK1 and RK2 will require services and treatment for the rest of their life due to the severe psychological trauma and other harm they endured while in state care.

120. Plaintiff KING, as parent and next friend of RK1, a minor, and RK2, a minor, is obligated to the undersigned firm for the payment of attorney's fees and, therefore, seeks recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE the Plaintiff MICHELLE MARTIN KING, as parent and next friend of RK1 a minor, and, RK2, a minor, prays that this Honorable Court enter a judgment in their favor against Defendant SOFSKY for all recoverable damages, attorneys' fees and costs and such other relief as the Court may deem proper.

**COUNT VII: 42 U.S.C. §1983 VIOLATION BY DEFENDANT AMY RANGER AS TO
PLAINTIFF MICHELLE MARTIN KING**

121. Plaintiffs hereby reaver and reallege paragraphs 1 through 11, 16 19-22, and 32-59.

122. On or about September 14, 2006, Defendant RANGER petitioned for the termination of Plaintiff KING's parental rights.

123. On or before January 2, 2007, Defendant RANGER knew that there was no arguable probable cause to continue pursuing the petition for termination of parental rights because Plaintiff KING had complied will all required elements of her case plan.

124. Defendant RANGER was acted with deliberate and reckless indifference to Plaintiff KING's constitutional rights by continuing to pursue the petition and interfering with Plaintiff KING's parental rights after January 2, 2007.

125. Despite Plaintiff KING's numerous requests to be reunified with RK1 and RK2 and with knowledge that there was no reason to continue the children in out of home placement, Defendant RANGER was grossly negligent or acted with deliberate indifference by making representations to the Court and/or other parties involved in the termination proceedings that Defendant RANGER knew were without adequate factual basis and would impede and interfere with Plaintiff KING's efforts at reunification.

126. Defendant RANGER allowed her personal feelings, dislike of Plaintiff KING, and/or frustrations with Plaintiff KING's personal contact with her and letters of complaint regarding Plaintiff KING's concerns of neglect and abuse for her children to interfere with the performance of Defendant RANGER's duties.

127. On or about September 21, 2006, pursuant to a request by Defendant FDCF, a stipulated order was entered to allow Plaintiff KING's oldest son KK to visit his biological father in New York for a period of up to 29 days. The order required Defendant KCI to arrange for the safe transport of the child. Defendant RANGER was assigned this task.

128. Upon information and belief, no background check upon the biological father and home study was never performed to ensure KK's safety and welfare during the visit.

129. Upon arriving at the airport with KK, Defendant RANGER, acting , recklessly and/or with deliberate indifference, turned KK over without any asking for any information or verifying the identify of KK's biological father so as to ensure KK's safety and welfare.

130. In spite of concerns expressed by Defendant KING regarding KK's safety and welfare, KK was not returned to Florida within the requisite 29 days and no action was taken to ensure his return.

131. Defendant RANGER, acting recklessly and/or with deliberate indifference, failed to facilitate Plaintiff KING's efforts to complete her case plan and efforts towards reunification with her children.

132. Defendant RANGER, acting recklessly and/or with deliberate indifference, interfered with Plaintiff KING's ability to complete her case plan.

133. Defendant RANGER, acting recklessly and/or with deliberate indifference, made misrepresentations to the dependency court regarding the alleged involvement of KK with gang activity.

134. Defendant RANGER threatened Plaintiff KING with termination of her parental rights if Plaintiff KING continued to contact her with complaints and concerns regarding RK1 and RK2's maltreatment in the Smith foster home.

135. The petition terminated in favor of Defendant KING, who was reunified with RK1 and RK2.

136. Defendant RANGER'S actions were taken with knowledge that said actions would deprive Plaintiff KING of her constitutional rights.

137. At all relevant times, it was clearly established that parents have a constitutionally protected liberty interest in the care, custody and management of their children, which entitles them to due process of law in a removal proceeding, and a fundamental liberty interest in maintaining a relationship with their children guaranteed by the First Amendment which is protected by the Fourteenth Amendment.

138. At all relevant times, it was clearly established state employees may not initiate or continue a judicial proceeding against a parent where there is no arguable probable cause to initiate or continue same.

139. As a result of Defendant RANGER's deliberate indifference, Plaintiff KING suffered and will continue to suffer, severe emotional distress, severe bodily harm and resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment. The losses are either permanent or continuing in nature and Plaintiff KING will suffer such losses in the future.

140. Plaintiff KING, individually, is obligated to the undersigned firm for the payment of attorney's fees and, therefore, seeks recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE the Plaintiff MICHELLE MARTIN KING, individually, that this Honorable Court enter a judgment in her favor against Defendant RANGER for all recoverable damages, attorneys' fees and costs and such other relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiffs MICHELLE MARTIN KING, individually, and, as parent and next friend of RK1, a minor, and RK2, a minor, hereby demand a trial by jury of all issues so triable in this case.

Respectfully submitted this 19th day of October, 2010.

Howard M. Talenfeld

Florida Bar Number: 312398

Tracey K. McPharlin

Florida Bar Number: 0458872

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